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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/909,573      | 07/20/2001  | Andreas Kaplan       | 1-15407             | 2213             |

7590

04/13/2004

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| EXAMINER |
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KUMAR, SHAILENDRA

| ART UNIT | PAPER NUMBER |
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1621

DATE MAILED: 04/13/2004

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Please find below and/or attached an Office communication concerning this application or proceeding.



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Kaplan et al

1-15407

EXAMINER

S. Kumar

| ART UNIT | PAPER |
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## Commissioner for Patents

Newly submitted claims 15-17 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: The original claims were compound claims as against newly added claims are method of use claims.

Since applicants have received an action on the merits for the original presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 15-17 are withdrawn from the consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP 2303.

The amendment filed on 4/7/04 canceling all claims drawn to the elected invention and presenting only claims drawn to a non-elected invention is non-responsive (MPEP § 821.03). The remaining claims are not readable on the elected invention because the original claims were drawn to the compound claims as against newly added claims 15-17 which are drawn to the method of use claims.

Since the above-mentioned amendment appears to be a *bona fide* attempt to reply, applicant is given a TIME PERIOD of ONE (1) MONTH or THIRTY (30) DAYS, whichever is longer, from the mailing date of this notice within which to supply the omission or correction in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD UNDER 37 CFR 1.136(a) ARE AVAILABLE.

Any inquiry concerning this communication should be directed to SHAILENDRA - KUMAR at telephone number (571)272-0640.

SHAILENDRA - KUMAR  
Primary Examiner  
Art Unit 1621